IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

FAO No.46 of 1990

Date of Decision: 21.2.2007

Smt.Kamla and others

Appellants

versus

Ibrahim and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

Present: Shri J.V.Yadav, Advocate for the appellants
Shri Vivek Goyal, Advocate
Shri Vijay Pal, Advocate for Shri Girish Agnihotri, Advocate

Jasbir Singh, J. (Oral)

This appeal has been filed by the appellants (claimants) against award dated 4.10.1989, vide which, the Motor Accident Claims Tribunal, Gurgaon (in short, the Tribunal), awarded an amount of Rs. 2 lac to them on account of death of Sarvsukh, husband of appellant No.1, father of appellant Nos.2 and 3 and son of appellant No.4 and brother of appellant No.5.

Before the Tribunal, it was averred by the appellants (claimants) that Shri Sarvsukh died in a motor accident on 1.8.1988, which had occurred on account of rash and negligent driving of the driver of truck bearing No.RRR-6263. 5 more persons have died in that accident. Factum of accident and death of Sarvsukh, who was working as a constable with the Haryana Government, is not in dispute.

By stating that age of the deceased was 32 years, he was working as a constable with the Haryana Government and had left behind widow, two minor children, mother and a minor sister, who were dependent upon him, counsel argues that the compensation awarded is on the lower side. After perusing documents and looking at the evidence on record, this Court feels that the argument raised is justified.

It is apparent from the records that, in fact, the Tribunal has granted an amount of Rs.2,88,000/-. However, by stating that the family will get pension, Rs.88,000/- were deducted. This Court feels that in view of ratio of judgment of the Hon'ble Supreme Court in *Helen C.Rebello (Mrs.) and others v. Maharashtra State Road Transport Corporation and another, (1999) 1 Supreme Court Cases 90*, finding of the Tribunal, to that extent, is liable to be set aside. In this case, multiplier of 20 has been applied, which is on the higher side. However, in view of the fact that the deceased had left behind a large family, consisting of widow, two minor children, mother and a minor sister, unit system, as envisaged by their Lordships of the Hon'ble Supreme Court in *U.P.State Road Transport Corporation and others v. Trilok Chandra and others, 1996 ACJ 831,* was required to be applied and in that event, amount, to be deducted towards personal spending of the deceased, would come to around Rs.200/- only. Furthermore, the Tribunal has not taken note of future prospects of the deceased like promotion etc, which he was bound to get in service. In view of that without entering into further controversy, grant of higher multiplier can be ignored and accordingly the appellants are held entitled to get entire compensation as assessed by the Tribunal i.e. Rs.2,88,000/-. Half of the enhanced amount of Rs.88,000/- be paid to the widow and rest half be equally apportioned amongst children of the deceased and if widow is not

alive, her share be also disbursed to the children. Amount be paid alongwith interest 9% (simple) per annum. Liability of the respondents in making the payment shall be joint and several.

With above mentioned above modification, this appeal stands disposed of.

February 21, 2007 **(Jasbir Singh)**
gk **Judge**